

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

**THE STATE OF TENNESSEE; THE
STATE OF ALABAMA; THE STATE OF
ALASKA; THE STATE OF ARIZONA;
THE STATE OF ARKANSAS; THE
STATE OF GEORGIA; THE STATE OF
IDAHO; THE STATE OF INDIANA;
THE STATE OF KANSAS; THE
COMMONWEALTH OF KENTUCKY;
THE STATE OF LOUISIANA; THE
STATE OF MISSISSIPPI; THE STATE
OF MISSOURI; THE STATE OF
MONTANA; THE STATE OF
NEBRASKA; THE STATE OF OHIO;
THE STATE OF OKLAHOMA; THE
STATE OF SOUTH CAROLINA; THE
STATE OF SOUTH DAKOTA; THE
STATE OF WEST VIRGINIA,**

Plaintiffs,

—and—

**ASSOCIATION OF CHRISTIAN
SCHOOLS INTERNATIONAL; A.S., a
minor, by Brandi Scarborough, her mother;
C.F., a minor, by Sara Ford, her mother;
A.F., a minor, by Sara Ford, her mother,**

Intervenor-Plaintiffs,

v.

**UNITED STATES DEPARTMENT OF
EDUCATION; MIGUEL CARDONA, in
his official capacity as Secretary of
Education; EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION;
CHARLOTTE A. BURROWS, in her
official capacity as Chair of the Equal
Employment Opportunity Commission;**

Case No. 3:21-CV-00308-CEA-DCP

**INTERVENOR-PLAINTIFFS'
MOTION TO INTERVENE**

UNITED STATES DEPARTMENT OF JUSTICE; MERRICK B. GARLAND, in his official capacity as Attorney General of the United States; **KRISTEN CLARKE**, in her official capacity as Assistant Attorney General for Civil Rights at the United States Department of Justice,

Defendants.

Proposed Intervenor-Plaintiffs Association of Christian Schools International, A.S., C.F., and A.F. (collectively, Intervenor), move to intervene in this case. Among other claims, Intervenor challenges the following final agency actions:

- The U.S. Department of Education’s interpretation of Title IX published in the Federal Register on June 22, 2021. Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021) (“Interpretation”).
- The “Dear Educator” letter and accompanying fact sheet issued by the U.S. Department of Education and Department of Justice’s Civil Rights Division on June 23, 2021. U.S. Dep’t of Educ., Letter to Educators on Title IX’s 49th Anniversary (June 23, 2021), <https://bit.ly/3ksLLDj>; U.S. Dep’t of Justice & U.S. Dep’t of Educ., Confronting Anti-LGBTQI+ Harassment in Schools, <https://bit.ly/3sQjZnM> (together with the Dear Educator Letter, “Fact Sheet”).

Intervenor challenges the Interpretation and the Fact Sheet on the basis that they violate the Constitution, Title IX (20 U.S. Code § 1681), the Administrative Procedure Act, and other statutes. The reasons for granting this motion are set forth in Intervenor’s accompanying memorandum of law, which is incorporated by reference, along with its attached exhibits. *See* Fed. R. Civ. P. 24. Intervenor’s counsel conferred with Plaintiffs’ counsel and Defendants’ counsel. Plaintiffs do not oppose this intervention. Defendants oppose Intervenor’s intervention under Federal Rule of Civil Procedure 24(a) and reserve their position as to Intervenor’s

intervention under Federal Rule of Civil Procedure 24(b). Intervenor request oral argument on this motion.

Respectfully submitted this 4th day of October, 2021.

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**Pro hac vice applications forthcoming*

Attorneys for Intervenor-Plaintiffs

Certificate of Service

I hereby certify that on the 4th day of October, 2021, I electronically filed the foregoing document with the Clerk of Court and that the foregoing document will be served via the CM/ECF system on all counsel of record.

s/ W. Andrew Fox

W. Andrew Fox

Attorney for Intervenor-Plaintiffs